

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

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Public Hearing: Yes: X No: _____

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TITLE: CONDITIONAL USE PERMIT AMENDMENT NO. UA07-0001, KB HOME SALES OFFICE

Proposal: A request to amend a previously approved Conditional Use Permit to allow for the relocation of the KB-Home Sales Office from the existing offsite sales commercial building to an onsite first floor area of a residential unit (Unit # 102).

Location: 700 South Abel Street

APN: 086-11-013

RECOMMENDATION: Approve subject to Findings and Conditions of Approval

Applicant: Jedediah N. Bennett, 6700 Koll Center Pkwy Ste 200, Pleasanton, CA 94566

Property Owner: Ray Panek, Senior Vice President, 6700 Koll Center Pkwy Ste 200, Pleasanton, CA 94566

Previous Action(s): General and Specific Plan Amendment, Zone Map Amendment, Environmental Impact Report, Vesting Major Tentative Map, Planned Unit Development (PD2003-1) "S" Zone Application (SZ2003-6) and Conditional Use Permit (UP2003-26).

Environmental Info: The proposed project is categorically exempt per Section 15304 (Minor Alterations to Land) of the California Environmental Quality Act (CEQA) Guidelines.

General Plan Designation: Multi-Family Very High Density

Present Zoning: R4-S, Multi-Family Very High Density with an "S" Zone Overlay

Existing Land Use: High Density Single Family Residential, Town House, and Condominium Development

Agenda Sent To: Applicant and owner as noted above

Attachments: Project Plans

PJ#: 3204

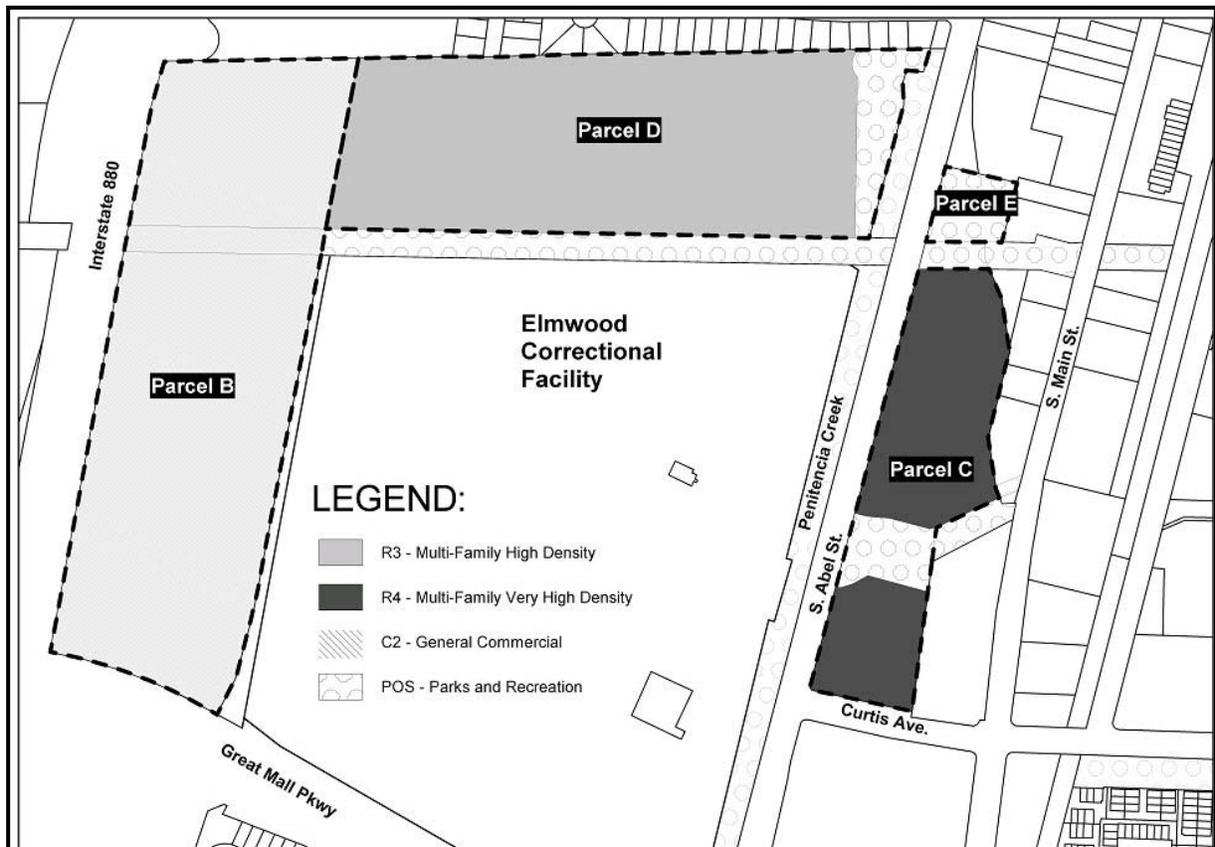
BACKGROUND

In November and December of 2004, the Planning Commission and City Council approved the General and Specific Plan Amendment, Zone Map Amendment, Environmental Impact Report, Vesting Major Tentative Map to subdivide parcels for residential, commercial and park uses; Planned Unit Development (PD2003-1) for 368 residential units west of South Abel Street; "S" Zone Application (SZ2003-6) and Conditional Use Permit No. UP2003-26 for 315 residential units and deviations to development standards for the portion of the project east of South Abel Street.

A Conditional Use Permit was granted in 2005 for a request to have a temporary sales office trailer and associated site improvements, and in 2006 a Conditional Use Permit was approved for a temporary double-wide sales office trailer and associated site improvements and parking lot with landscaping.

Site Description

The portion of the project for this application is the condominium site located on the east side of South Abel Street (see "Parcel C" below). This site consists of three buildings; two of which are occupied and the third being under construction.



THE APPLICATION

This Conditional Use Permit application is submitted pursuant to Title XI, Chapter 10, Section 8.04 (Multi-Family Very High Density, Conditional Uses – Temporary tract offices and tract signs) and Section 57 (Conditional Uses Permitted by Commission) of the Milpitas Zoning Ordinance. The applicant is requesting a Conditional Use Permit Amendment to allow for the relocation of the KB-Home Sales Office from the existing offsite sales commercial building to an onsite first floor area of a residential unit (Unit # 102).

Project Description

The project includes renovating the ground level of Unit # 102 to construct the temporary sales office. Once the sales office is no longer needed, KB Home will return the unit to its original design. The project site includes three buildings, with the proposed location for the sales office located in the second building with the entrance on the northern side. Vehicular access to the office will be from South Abel Street. There will be 10 parking spaces including ADA accessible spaces directly in front of the temporary sales office and an ADA compliance bathroom located inside the sales office. For more detail about the layout of the project site, see the attached site plan.

The temporary sales office will be open daily. The hours of operation are Monday through Sunday from 10:00 A.M. and 6:00 P.M. and by appointment from 6:00 P.M. to 7:00 P.M.

Conformance with the General Plan

The project supports the sale of new homes within the Midtown area. The proposed use does not conflict with any General Plan Principles and Policies, and is consistent with the following General Plan Implementing Policies:

Guiding Principle 2.a-I-2 Develop the Midtown area, as shown on the Midtown Specific Plan, as an attractive and economically vital district that accommodates a mixture of housing, shopping, employment, entertainment, cultural and recreational activities organized within a system of landscaped boulevards, streets and pedestrian / bicycle linkages.

Guiding Principle 2.a I-2 Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.

Conformance with the Zoning Ordinance

The proposed project is located in the Multi-Family Very High Density (R4) zoning district and is permitted with the approval of a Conditional Use Permit. Milpitas Municipal Code (MMC) Section XI-10-8.04-7 lists the following use as permitted, subject to securing a conditional use permit:

Temporary tract offices and tract signs with the exception that no tract sign shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.

MMC Section XI-10-57.03-5 states that approval of the Conditional Use Permit may be granted by the Planning Commission if all of the following findings can be made:

- (a) *The proposed use, at the proposed location will not be detrimental or injurious to property of improvements in the vicinity nor to the public health, safety and general welfare;*
- (b) *The proposed use is consistent with the Milpitas General Plan; and*
- (c) *The proposed use is consistent with the Milpitas Zoning Ordinance.*

Conformance with CEQA

Staff conducted an environmental assessment of the project and determined that the proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15304 ("Minor temporary use of land having negligible or no permanent effects on the environment") of the California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

Close the Public Hearing. Approve Conditional Use Permit Amendment No. UA07-0001 Subject to the Findings and Special Conditions of Approval listed below.

FINDINGS

1. The proposed project is consistent with the City of Milpitas General Plan in terms of land use because the temporary office supports the sale of new homes, creating an attractive and vibrant midtown area.
2. The proposed project is consistent with the City of Milpitas Zoning Ordinance because the proposed use is a conditionally permitted use in the Multi-Family Very High Density zoning district.
3. As conditioned, the proposed project will not be detrimental or injurious to the public health, safety, and general welfare to adjacent future tenants or the surrounding community because the use is temporary in nature and no significant impacts to parking, traffic, odor or noise are anticipated.

SPECIAL CONDITIONS

1. This Conditional Use Permit Amendment No. UA07-0001 is for the relocation of the KB Home Sales Office from the existing offsite commercial building to an onsite first floor area of a residential unit (Unit # 102). The application also includes the installation of a temporary freestanding sign and flag signs. (P)
2. This temporary use permit for the temporary sales office and associated site improvement expires on December 14, 2009. Should any extension of this permit be necessary, an application shall be submitted to the Planning Division no later than September 14, 2009. (P)

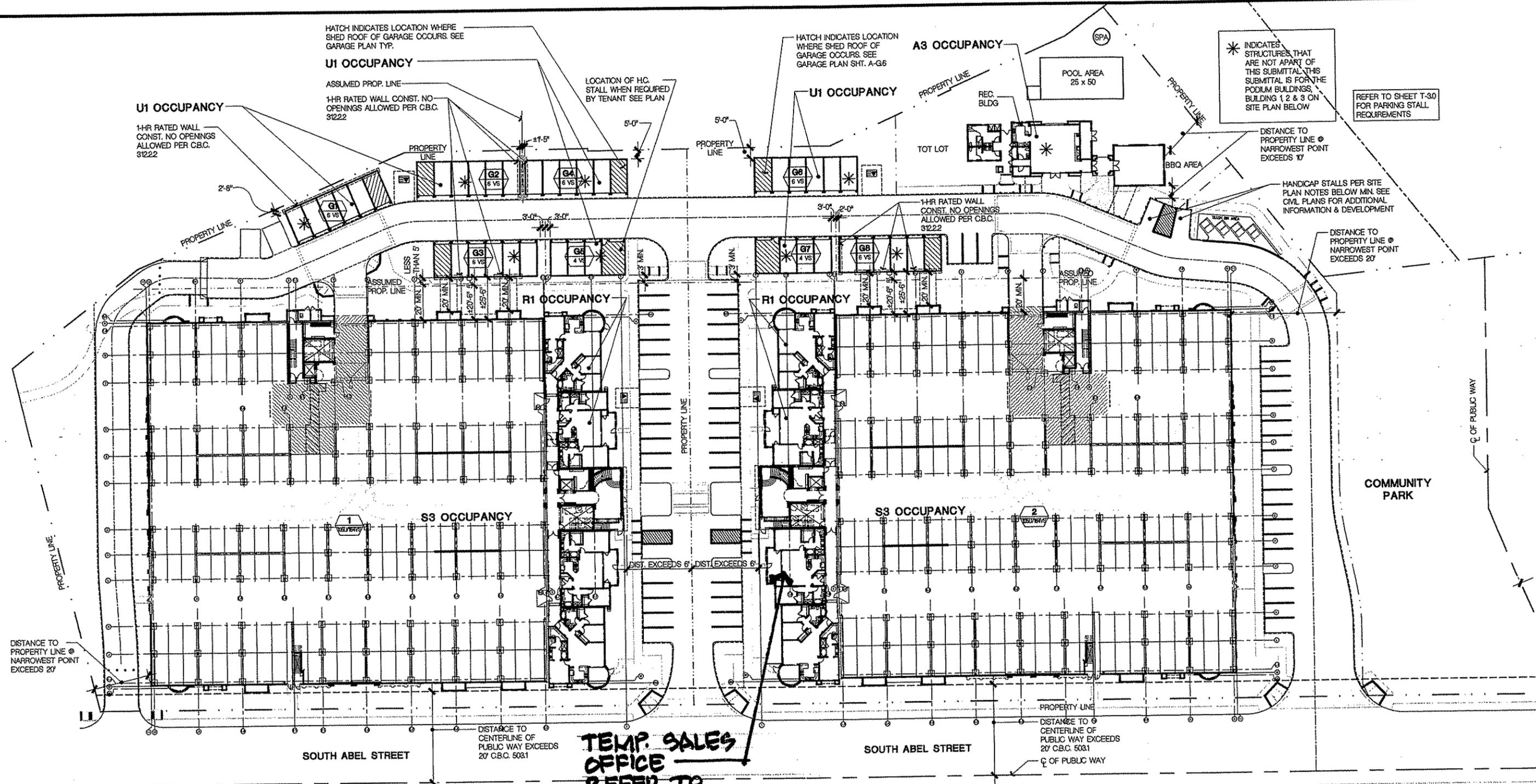
3. Any modifications to the conditions of approval require Planning Commission approval of an amendment to this Use Permit and a public hearing. Minor changes, as per Section 42.10-2 of the Milpitas Zoning Ordinance, to approved plans may be approved by the Planning Division staff. (P)
4. Prior to issuance of occupancy, all site improvements indicated on the approved plans including but no limited, parking lot, landscaping, sidewalks, streets and lighting, shall be installed and to the satisfaction of the Planning Division. (P)
5. Pursuant to Resolution No. 3187, the applicant shall prominently post a copy of the City's General Plan Map and have a copy of the General Plan available for public review in the sales office trailer. In addition, the applicant shall be required to refer to each purchaser of a home to the General Plan and Map and to the City Planning Division to answer any questions regarding the interpretation of the Plan or Map.
6. On-site temporary signage associated with the sales office and model homes shall be to the approval of the Planning Division staff under a separate permit. Once approved all temporary signage shall removed upon the removal of the sales office and sale of the model homes. (P)
7. If at the time of application for building permit there is a project job account balance due to the City for recovery of fees, review of permits will not be initiated until the balance is paid in full. (P)
8. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations and in conformance with the approved plans. (P)
9. The applicant shall not obstruct the noted sight distance areas as indicated on the City Standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
10. It is the responsibility of the developer to obtain any necessary permits or approvals from affected agencies or private parties. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)
11. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to plan check and inspection deposit, and 205% building permit automation fee. (E)
12. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the national Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers including any construction activities to eliminate as much as possible

pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

13. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone "X." (E)

Planning Division = (P)

Engineering Division = (E)



TEMP. SALES OFFICE REFER TO 1/16" = 1'-0" PLAN

NORTHERLY SITE PLAN BUILDINGS 1 & 2

TERRA SERENA SALES OFFICE SITE PLAN 10/26/07 N.T.S.



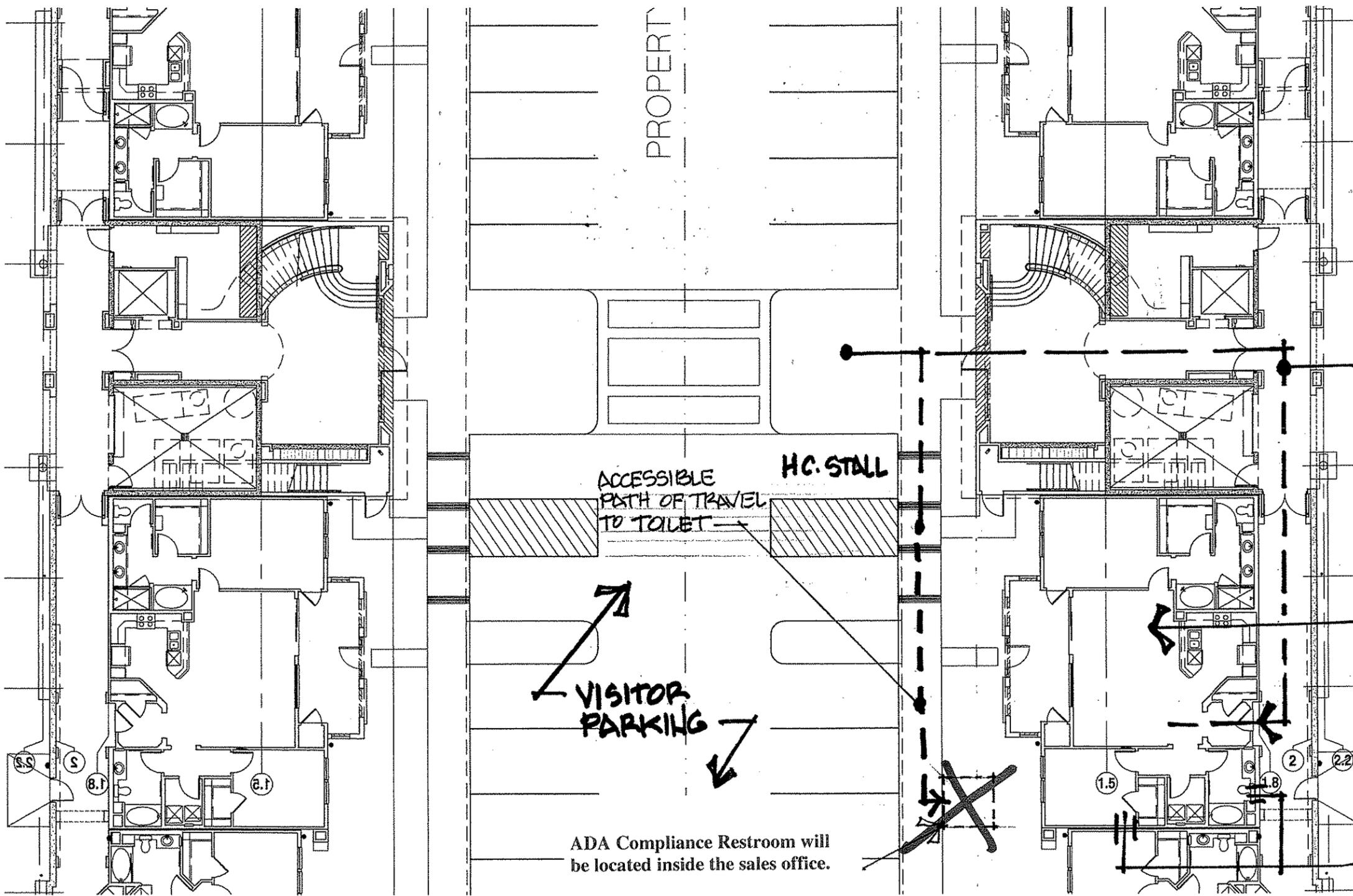
REFER TO SHEET T-30 FOR PARKING STALL REQUIREMENTS

HANDICAP STALLS PER SITE PLAN NOTES BELOW MIN. SEE CIVIL PLANS FOR ADDITIONAL INFORMATION & DEVELOPMENT

DISTANCE TO PROPERTY LINE @ NARROWEST POINT EXCEEDS 20'

DISTANCE TO PROPERTY LINE @ NARROWEST POINT EXCEEDS 10'

* INDICATES STRUCTURES THAT ARE NOT PART OF THIS SUBMITTAL. THIS SUBMITTAL IS FOR THE PODIUM BUILDINGS, BUILDING 1 & 2 & 3 ON SITE PLAN BELOW



PATH OF TRAVEL /
ACCESSIBLE PATH
OF TRAVEL

ACCESSIBLE
PATH OF TRAVEL
TO TOILET

HC. STALL

VISITOR
PARKING

TEMP SALES OFFICE
(PLAN 3 UNIT #102)
1,274 SR. FT.
MAX. OCCUPANTS PER
TABLE 10A ITEM 23
1:100 S.F.
MAX. OCCUPANTS 12

ADA Compliance Restroom will
be located inside the sales office.

1 HR. OCCUPANCY
SEPERATION PROVIDED
@ R-1 TO B OCCUPANCY
TYP.

TERRA SERENA
ENLARGED SITE PLAN 1/16" = 1'-0"
TEMP SALES OFFICE
10/26/07